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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,248	11/20/2001	Yves Ramanzin	PHFR 010138	9634

65913 7590 08/18/2010

NXP, B.V.
NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

EXAMINER	
VO, TUNG T	

ART UNIT	PAPER NUMBER
2621	

NOTIFICATION DATE	DELIVERY MODE
08/18/2010	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YVES RAMANZIN

Appeal 2009-006944
Application 09/989,248
Technology Center 2600

Before ROBERT E. NAPPI, JOHN C. MARTIN, and
ELENI MANTIS MERCADER, *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge*.

DECISION ON APPEAL[1]

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[1] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

This is a decision on appeal under 35 U.S.C. § 134(a) of the rejection of claims 1 through 4.

We reverse.

INVENTION

The invention is directed to a decoding method for decoding a video bit stream. See page 1 of Appellant's Specification.

Claim 1 is reproduced below:

> 1. For use in a video decoder comprising processing circuitry capable of receiving from a transmitting and/or storing medium a video bitstream which itself includes base layer coded video signals and enhancement layer coded video signals and decoding said bitstream for generating decoded signals corresponding either only to the base layer signals, to be then displayed alone, or to the base layer signals and the enhancement layer signals, to be then displayed together, a method of decoding said video bitstream including said base layer and enhancement layer coded video signals, comprising the steps of:
>
> decoding the base layer coded video signals to produce decoded base layer frames;
>
> decoding the enhancement layer coded video signals to produce decoded enhancement layer frames;
>
> displaying the decoded base layer frames either alone or with the decoded enhancement layer frames to form video frames;
>
> said method being characterized in that the displaying step itself comprises:
>
> a decision sub-step, for examining on the basis of a given criterion the quality of each successive base layer frame to be displayed and selecting the poor quality frames;
>
> a replacement sub-step, for replacing each poor quality base layer frame by at least one of the two frames of the enhancement layer preceding and following said poor quality frame base layer frame.

REFERENCES

Wu 6,700,933 B1 Mar. 2, 2004

James K. Han, *Multi-resolution Layered Coding for Real-Time Image Transmission: Architectural and Error Control Considerations* 4 Real Time Imaging, 275-298 (1998).

REJECTION AT ISSUE

The Examiner has rejected claims 1 through 4 under 35 U.S.C. § 103(a) as being unpatentable over Wu in view of Han. Answer 3-4.[2]

ISSUE

Appellant argues on pages 6 through 11 of the Appeal Brief[3] that the Examiner's rejection of claims 1 through 4 is in error.

Appellant's arguments present us with the issue: Did the Examiner err in finding that the combination of Wu and Han teaches replacing poor quality base layer frames with frames from the enhancement layer as claimed?

ANALYSIS

Appellant's arguments have persuaded us that the Examiner erred in finding that the combination of the references teaches replacing poor quality base layer frames with frames from the enhancement layer as claimed.

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[2] Throughout this decision we refer to the Answer dated October 22, 2007.
[3] Throughout this decision we refer to the Appeal Brief dated August 2, 2007.

Independent claim 1 recites "a replacement sub-step, for replacing each poor quality base layer frame by at least one of the two frames of the enhancement layer preceding and following said poor quality frame base layer frame." Independent claim 4 recites a limitation which similarly calls for the replacement of a base layer frame to be replaced with an enhancement layer frame.

In rejecting these claims the Examiner relies upon Han's teaching of temporal replacement (case II) described on pages 291-292 to show that it was known to replace base layer frames with enhancement layer frames. Answer 4. We do not find that the disclosure of Han on pages 291 and 292 supports the Examiner's finding. Specifically, Han states on page 291, first column, and first paragraph, temporal replacement is "replacing the lost block with the corresponding block in the previous frame." Further, Han states in the paragraph bridging pages 291 and 292 that "the superposition of the subsequent enhancement layer to the base layer in an *n*-layer coded image is equivalent to the base layer of the $(n\text{-}1)^{st}$ layer image in its quality." These passages do not teach replacing a base layer frame with an enhancement layer frame.

Further, contrary to the Examiner's statement on page 5 of the Answer, we do not find that Wu suggests in column 21, lines 41-56, and figure 20, that the base layer is replaced by an enhancement layer. This passage of Wu discusses reconstructing the enhancement layer and not using an enhancement layer to replace a base layer.

For the forgoing reasons, we find that the Examiner has not shown that all of the limitations of independent claims 1 and 4 are taught by the

references. Thus, we will not sustain the Examiner's rejection of claims 1 through 4 under 35 U.S.C. § 103(a).

CONCLUSION

Appellant has persuaded us of error in the Examiner's rejection of claims 1 through 4.

ORDER

The decision of the Examiner to reject claims 1 through 4 is reversed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(v) (2010).

REVERSED

tkl
NXP, B.V.
NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131